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BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB-2011-0018]

Privacy Act of 1974, as Amended

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice of Modified Privacy Act System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Bureau of Consumer Financial Protection hereinto referred to as the Consumer Financial Protection Bureau (“CFPB”) gives notice of the establishment of a Privacy Act System of Records.

DATES: Comments must be received no later than **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]**. The system of records will be effective **[INSERT DATE 40 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]** unless the comments received result in a contrary determination.

ADDRESSES:

You may submit comments, identified by Docket No. CFPB-2011-0018, by any of the following methods:

- *Electronic:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail:* Claire Stapleton, Chief Privacy Officer, Consumer Financial Protection Bureau, 1700 G Street N.W., Washington, DC 20006.

- *Hand Delivery/Courier in Lieu of Mail:* Claire Stapleton, Chief Privacy Officer, Consumer Financial Protection Bureau, 1700 G Street N.W., Washington, DC 20006.

All submissions must include the agency name and docket number for this notice. In general all comments received will be posted without change to <http://www.regulations.gov>. In addition, comments will be available for public inspection and copying at 1700 G Street N.W., Washington, DC 20006, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect comments by telephoning (202) 435-7220. All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Claire Stapleton, Chief Privacy Officer, Consumer Financial Protection Bureau, 1700 G Street N.W., Washington, DC 20006, (202) 435-7220.

SUPPLEMENTARY INFORMATION: The Dodd-Frank Wall Street Reform and Consumer Financial Protection Act (“Act”), Public Law No. 111-203, Title X, established the CFPB to administer and enforce federal consumer financial protection law. The CFPB will maintain the records covered by this notice.

The system of records described in this notice, CFPB.005 – Consumer Response System, will be used to collect, respond to, and refer consumer inquiries and complaints concerning consumer financial products and services received after July 21, 2011. A description of the system of records follows this Notice.

The report of a modified system of records has been submitted to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Office of Management and Budget, pursuant to Appendix I to OMB Circular A-130, “Federal Agency Responsibilities for Maintaining Records About Individuals,” dated November 30, 2000, and the Privacy Act, 5 U.S.C. 552a(r).

The system of records entitled, “CFPB.005 – Consumer Response System” is published in its entirety below.

The CFPB implementation team under Treasury previously published a system of records notice (“SORN”) with proposed routine uses for the Consumer Inquiry and Complaint System (“CIC”) in the Federal Register, 76 FR 1507, January 10, 2011. Comments were invited from the public on the SORN. This notice takes into account these comments and establishes the modified system of records.

The CFPB received several comments regarding the “routine uses” set forth in that SORN. The CFPB has carefully reviewed these comments and has revised the routine uses contained in this SORN, as appropriate. In some cases the routine uses have been eliminated or combined. In the previous SORN, there were 16 routine uses, while this SORN only has 12. In addition, the CFPB has clarified that the system may include complaints about individuals made directly to the CFPB and not merely complaints about individuals made to other federal or state agencies and then shared with the CFPB.

Some comments discussed the need for further agency rulemaking, and development of other procedures and practices. The CFPB has published interim final regulations on information disclosure processes and procedures. Disclosures of

information contained in a system of records must be in compliance with these interim final regulations. As the CFPB continues to develop its policies, procedures, and regulations as required by the Act, it will address other issues raised in the comments, including the procedures surrounding the handling of consumer complaints as required by Section 1034 of the Act.

Several comments characterized the routine uses as too broad and inclusive. Each of the routine uses listed here reflect the Bureau's careful and considered determination that the sharing of consumer response information in these situations is necessary and proper to carry out the agency's mission. Many of the routine uses are common to other agencies. For example, the Federal Deposit Insurance Corporation's Consumer Complaint and Inquiry Records SORN, published at 72 FR 61136, Oct. 29, 2007, and the Office of the Comptroller of the Currency's Consumer Complaint and Inquiry Information System, published at 73 FR 41412, July 18, 2008, contain routine uses similar to the routine uses set forth in this SORN. Indeed several routine uses, such as disclosure of information when there has been a security breach that could present a risk of harm to the security or integrity of the system or individuals, are common to all government agency SORNs.

One comment objected to the disclosure of information to third parties to resolve complaints. This routine use remains as the CFPB believes it is necessary to resolve complaints and it is common to other financial regulators' consumer complaint SORNs.

One routine use established in the previous CFPB SORN addressing consumer complaint data has been removed based on comments received. Disclosure of consumer complaints to other consumers who filed similar complaints was formerly authorized for

the purpose of updating complainants on the status of an investigation. Following the comments received, the CFPB determined it was not necessary to disclose this information to achieve the goals of updating all parties on the status ongoing investigations.

One comment also objected to the use of the word “victim” as overly broad. Any references to “victim” have been removed.

The previous consumer complaint SORN contained separate routine uses for disclosure of records in civil and criminal proceedings before a court, magistrate or administrative tribunal. These routine uses have been combined.

Date: October 31, 2011

Claire Stapleton,
Chief Privacy Officer

CFPB.005

System Name:

CFPB Consumer Response System

System Location:

Consumer Financial Protection Bureau, 1700 G Street N.W., Washington, DC 20006.

Categories of individuals covered by the system:

Individuals covered by this system are individuals who submit complaints or inquiries to the CFPB (on their own or others’ behalf); individuals on whose behalf

complaints or inquiries are submitted by others (such as attorneys, members of Congress, third party advocates, and/or other governmental organizations); and individuals or employees of entities about whom complaints or inquiries have been received by prudential regulators, the Federal Trade Commission, other federal agencies, state agencies or the CFPB. The term “prudential regulators” refers to any federal banking agency, as that term is defined in section 3 of the Federal Deposit Insurance Act, and the National Credit Union Administration. Information collected regarding consumer products and services is subject to the Privacy Act only to the extent that it concerns individuals; information pertaining to corporations and other business entities and organizations is not subject to the Privacy Act.

Categories of records in the system:

Records in the system may contain: (1) Correspondence or other information received; (2) information from the entity or individual referring the inquiry or complaint; (3) records created of verbal communications by or with complainants or other individuals; (4) information regarding third party advocates or others who submit complaints or inquiries on another’s behalf; (5) information identifying the entity that is subject to the complaint or inquiry or its employees; (6) communication with or by the entity that is subject to the complaint or inquiry or its employees; (7) unique identifiers, codes, and descriptors categorizing each complaint or inquiry file; (8) information about how complaints or inquiries were responded to or referred, including any resolution; (9) records used to respond to or refer complaints or inquiries, including information in the CFPB’s other systems of records; and (10) identifiable information regarding both the individual who is making the inquiry or complaint, and the individual on whose behalf

such inquiry or complaint is made, and employees of the entity about which the complaint or inquiry was made, including name, social security number, account numbers, address, phone number, email address, date of birth.

Authority for maintenance of the system:

Pub. L. No. 111-203, Title X, Sections 1011, 1012, 1013(b)(3), 1021, 1034, codified at 12 U.S.C. §§ 5491, 5492, 5493(b)(3), 5511, 5534.¹

Purpose(s):

The information in the system is being collected to enable the CFPB to receive, respond to, and refer complaints or inquiries regarding consumer financial products or services. The system serves as a record of the complaint or inquiry, and is used for collecting complaint or inquiry data; responding to or referring the complaint or inquiry; aggregating data that will be used to inform other functions of the CFPB and, as appropriate, other agencies and/or the public; and preparing reports as required by law. This system consists of complaints or inquiries received by the CFPB or other entities and information concerning responses to or referrals of these complaints or inquiries, as appropriate.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses to:

These records may be disclosed, consistent with the CFPB Disclosure of Records and Information Rules promulgated in the title of the CFR to:

¹ Section 1066 of the Act grants the Secretary of the Treasury interim authority to perform certain functions of the CFPB. Pursuant to that authority, Treasury published interim final rules on the Disclosure of Records and Information within 12 CFR Chapter X. This SORN is published pursuant to those rules and the Privacy Act.

- (1) Appropriate agencies, entities, and persons when: (a) the CFPB suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the CFPB has determined that, as a result of the suspected or confirmed compromise, there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the CFPB or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the CFPB's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;
- (2) Another federal or state agency to: (a) permit a decision as to access, amendment or correction of records to be made in consultation with or by that agency; or (b) verify the identity of an individual or the accuracy of information submitted by an individual who has requested access to or amendment or correction of records;
- (3) The Office of the President in response to an inquiry from that office made at the request of the subject of a record or a third party on that person's behalf;
- (4) Congressional offices in response to an inquiry made at the request of the individual to whom the record pertains;
- (5) Contractors, agents, or other authorized individuals performing work on a contract, service, cooperative agreement, job, or other activity on behalf of the CFPB or Federal Government and who have a need to access the information in the performance of their duties or activities;

- (6) The U.S. Department of Justice (“DOJ”) for its use in providing legal advice to the CFPB or in representing the CFPB in a proceeding before a court, adjudicative body, or other administrative body, where the use of such information by the DOJ is deemed by the CFPB to be relevant and necessary to the advice or proceeding, and in the case of a proceeding, such proceeding names as a party in interest:
- (a) The CFPB;
 - (b) Any employee of the CFPB in his or her official capacity;
 - (c) Any employee of the CFPB in his or her individual capacity where DOJ or the CFPB has agreed to represent the employee; or
 - (d) The United States, where the CFPB determines that litigation is likely to affect the CFPB or any of its components;
- (7) A court, magistrate, or administrative tribunal in the course of an administrative proceeding or judicial proceeding, including disclosures to opposing counsel or witnesses (including expert witnesses) in the course of discovery or other pre-hearing exchanges of information, litigation, or settlement negotiations, where relevant or potentially relevant to a proceeding, or in connection with criminal law proceedings;
- (8) Appropriate agencies, entities, and persons, to the extent necessary to obtain information needed to investigate, resolve, respond, or refer to a complaint or inquiry;
- (9) Appropriate federal, state, local, foreign, tribal, or self-regulatory organizations or agencies responsible for investigating, prosecuting, enforcing, implementing, issuing, or carrying out a statute, rule, regulation, order, policy, or license if the

information may be relevant to a potential violation of civil or criminal law, rule, regulation, order, policy or license;

- (10) An entity or person that is the subject of the complaint or inquiry and the counsel or non-attorney representative for that entity or person; and
- (11) Federal and state agencies for the purpose of facilitating the data sharing requirements described in 12 U.S.C. § 5493(b)(3)(D) concerning consumer financial products and services complaints.

Policies and practices for storing, retrieving, accessing, retaining, and dispensing of records in the system:

Storage:

Paper and electronic records.

Retrievability:

Records are retrievable by a variety of fields including without limitation the individual's name, social security number, complaint/inquiry case number, address, account number, transaction number, phone number, date of birth, or by some combination thereof.

Safeguards:

Access to electronic records is restricted to authorized personnel who have been issued non-transferrable access codes and passwords. Other records are maintained in locked file cabinets or rooms with access limited to those personnel whose official duties require access.

Retention and disposal:

The CFPB will maintain computer and paper records indefinitely until the National Archives and Records Administration approves the CFPB's records disposition schedule.

System manager(s) and address:

The Consumer Financial Protection Bureau, Assistant Director of Response Center, 1700 G Street N.W., Washington, DC 20006.

Notification procedure:

Individuals seeking notification and access to any record contained in this system of records, or seeking to contest its content, may inquire in writing in accordance with instructions appearing in Title 12, Chapter 10 of the CFR, "Disclosure of Records and Information." Address such requests to: Chief Privacy Officer, Bureau of Consumer Financial Protection, 1700 G Street N.W., Washington, DC 20006.

Record access procedures:

See "Notification Procedures" above.

Contesting record procedures:

See "Notification Procedures" above.

Record source categories:

Information in this system is obtained from individuals and entities filing complaints and inquiries, other governmental authorities, and entities that are the subjects of complaints and inquiries.

Exemptions claimed for the system:

None.

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